

Sewer Assessment By-Law

Section 1. Assessments.

(a) General

Every person owning land abutting upon any way in which a main or common sewer has been laid out, and who enters or has entered his particular drain into such main drain or common sewer, or who by more remote means receives benefit thereby for draining his land or buildings, shall be assessed under the provisions of M.G.L. c. 83 section 14. The Sewer Commission shall have the power as set forth in M.G.L. c. 83 section 15, when ascertaining assessments as a betterment for construction, to apply a rate based upon a uniform unit method. A uniform unit method shall be based upon sewerage construction costs divided among the total number of existing and potential sewer units to be served after having proportioned the cost of special and general benefit facilities.

(b) Assessments under this section shall be ascertained, assessed, certified and committed to the Town Treasurer by the Sewer Commission. Such assessments may be made for all sewers, lateral sewers, pump stations and appurtenant works. Sewer betterment assessments and any sewer betterment policies which are adopted by the Town under M.G.L. c. 80 and M.G.L. c. 83 for particular public sewer construction projects shall follow the procedures set out hereinbelow.

(b) Method of assessment: uniform unit.

(1) The Town of Lunenburg shall assess sewer betterments based upon a uniform unit method. Each unit shall be equal to a single-family residence. Multiple family buildings and non-residential buildings as described herein shall be converted into units on the basis of residential equivalents. The total assessment for a particular sewerage construction project shall not be based on or limited by an estimated betterment. Revenue generated by said betterment assessment shall be equal to or shall cover the total project costs associated with design and construction of the sewers and pumping station, and appurtenant work.

(2) The Town shall levy assessments against all properties abutting a sewer street after acceptance of the entire pertinent construction contract(s) including finalization of all pertinent contractual documents. The date of acceptance shall be determined by the Sewer Commission. In the order of assessment, the Town shall designate the owner of each parcel on the preceding January 1st as liable for assessment under the provisions of the General Laws.

(3) For assessment purposes, all properties receiving direct benefit from the sewerage system shall be converted into sewer units. Properties receiving direct benefit, either developed or undeveloped, shall be designated a number of sewer units under the following guidelines:

1. Single-family dwellings shall comprise one (1) sewer unit.
2. Multiple unit residential properties shall comprise a number of sewer units based on the following methodology:
 - a. residential properties such as apartments or multi-family homes shall be assessed one (1) sewer unit for each apartment with more than three (3) rooms. Residential units comprised of three (3) rooms or less shall be assessed one-half ($\frac{1}{2}$) of one (1) sewer unit for each such unit.
 - b. Residential condominium complexes shall be assessed one (1) sewer unit for each dwelling unit.

(4) Subdivisions shall be assessed one (1) sewer unit for each buildable lot except that a subdivision which pursuant to subdivision regulations of the Town of Lunenburg agreed to install and by the appropriate assessment date for betterments has actually installed a dry system in said subdivision shall not be assessed a sewer betterment fee per lot but shall be assessed a sewer privilege fee as set by Section 2 hereinbelow. Certain lots not involving actual subdivision shall also be assessed as provided in Section 3(c) hereinbelow.

(5) a. Non-residential buildings, which shall include all industrial, commercial and municipal properties, shall comprise a number of sewer units based upon water consumption as follows: Sewer units = Non-residential water usage (gpd) / 300 (gpd). (Rounded up to the next whole number.) Non-residential buildings not metered for water use shall be assigned a water consumption volume based on Title 5 (Part 2, Section 13) of the State Environment Code of the Commonwealth of Massachusetts, Minimum Requirements for the Subsurface Disposal of Sanitary Sewage.

(5) b. When a single structure or building contains a non-residential use and a residential use and neither use is accessory to the other and the non-residential use does not receive municipal water service, such mixed use structure shall be charged a betterment only for the residential unit or use. This provision shall not apply in the following zoning districts as defined in the Town zoning by-law:

Retail Commercial; Commercial; Office Park and Industrial.

(6) Undeveloped residential lots shall be converted into dwelling units on the basis of maximum number frontage and area requirements as directed in the zoning by-law in effect at the time of assessment. Each potential dwelling unit shall then comprise one (1) sewer unit; The owner of an undeveloped lot may apply pursuant to M.G.L. c. 83 section 19 to extend the time for payment as provided in Section 3 hereinbelow. In addition, land classified as agricultural, horticultural, recreations, or forest land, upon the application of the owner, may have the betterment assessment suspended for so long as the land is devoted to that use pursuant to M.G.L. c. 61A section 18, M.G.L., c. 61B section 13, and M.G.L. c. 61 section 5.

(7) Undeveloped non-residential lots shall be converted into development lots on the basis of the maximum number of lots that may be created based upon the frontage and area requirements as required in the zoning by-law in effect at the time of assessment. Each potential development lot shall then comprise one (1) sewer unit; the owner of an undeveloped lot may apply pursuant the M.G.L., c. 83 section 19 to extend the time for payment as provided in Section 4 herein below. In addition, land classified as agricultural, horticultural, recreation or forest land, upon the application of owner, may have the betterment assessment suspended for so long as the land is devoted to that use pursuant to M.G.L., c. 61A section 18, M.G.L. c. 61B section 13, and M.G.L. c. 61 section 5.

(8) Nothing in this section shall supersede the language of Section 2 hereinbelow concerning a compensatory fee for increase in the use of the land.

(c) *Betterment payment.*

The provisions of the General Laws relative to the assessment, apportionment, division reassessment, abatement and collection of sewer assessments shall apply. The Tax Collector of the Town of Lunenburg shall have all of the powers conveyed by the General Laws. In accordance with M.G.L. c. 80 section 12, assessments made shall constitute a lien upon the land assessed until the full balance is paid. Once a selection has been made, the payment method may not be changed at a later date; however, the balance of the principal due on any lien may be paid in full at any time.

Upon the transfer of title to a new owner, the seller/transferor shall immediately notify the Town Treasurer/Collector and Town Assessors. After transfer of title, the betterment lien may be transferred. The betterments may be paid in full to the collector's office without interest or charges within thirty (30) days of the date of assessment.

(d) *Abatements and deferrals.*

(1) *Unbuildable lot.* A property owner may request of the Building Inspector a formal written opinion which declares that under the then current Town zoning by-law, the lot(s) which have been assessed a

sewer betterment is not buildable without issuance of one (1) or more variances under the applicable zoning by-law provisions. This letter must be filed permanently with the Building Inspector and with the Zoning Board of Appeals. Upon issuance of the opinion, the property owner may then file an application for abatement with the assessing board which shall include a certified copy of the building inspector's opinion and which shall require a notarized statement that the owner and any subsequent purchaser or their assigns or agents shall not apply for a variance to make the lot buildable.

A property owner may file a notice of intent to construct a dwelling with the Town Conservation Commission for one (1) or more lots that have been assessed a sewer betterment. Following the regular hearing procedures of the Conservation Commission for any such notice, if the commission issues a formal denial of the notice of intent to construct a dwelling, and if all such documents which are otherwise required by law to be filed with the Registry of Deeds have been so filed, then the property owner may file with the assessing board an appeal action for abatement so long as the owner did not appeal the denial. The appeal action shall include a certified copy of the denial of the notice of intent to construct a dwelling.

All such abatements that are issued by the assessing board under this Section 1(d)(1) shall also be permanently filed with the offices of the Building Inspector and the conservation commission. All applications and orders or opinions issued under this section shall state that the property owner has voluntarily requested that the property be found unbuildable and that the property owner fully understands all consequences stemming from such determination.

(2) *Age and income.* A property owner may defer the betterment assessment as provided in M.G.L. c. 80 section 13B, which has been accepted by the Town of Lunenburg, if they are sixty-five (65) years of age or older and qualify under M.G.L. c. 59 section 5, Clause 41A. However, the transfer of lien provision, Section 3(c), betterment payments, shall not apply to deferrals as provided for in this section, in compliance with M.G.L. c. 80 section 13B.

Sec. 2 Compensatory sewer privileges fee; increase in use of land.

Notwithstanding the other provisions of this Sewer Assessment By-Law, if a betterment has: (i) been assessed to a property based upon the estimated number of developable sewer units as required by this article or a sewer betterment policy adopted by the Sewer Commission and said property is ultimately developed to accommodate a number of sewer units in excess of the number estimated for determining the betterment assessment, and/or (ii) been assessed to a developed parcel and later in time the use of that parcel is increased to accommodate a number of sewer units in excess of the number estimated for determining the betterment assessment, then the Town shall assess a compensatory sewer privilege fee

to reflect the increased use. This fee shall be equivalent to the amount that would have been charged as a betterment assessment upon the additional uses or units at the time of the original assessment. Apportionment of this fee shall be permitted only if specifically requested at the time of assessment and only for a period of ten (10) years or less. Apportioned sewer privilege fees shall bear interest at the same rate charged for the most recent Town sewer project betterments.

Section 3. Laying out and payment for particular sewers connecting with common sewer or main drain and sewer privilege fee.

(a) Whenever any land is connected with a common sewer or main drain laid out by the Sewer Commission in a public way, the Commission shall, at the expense of the Town, lay the particular sewer providing such connection from the common sewer or main drain to the boundary of the way. When a common sewer or main drain is constructed in a public way, the Sewer Commission may lay such particular sewers from the common sewer or main drain to the boundary of such way as may be necessary, in the opinion of the Sewer Commission, to connect land abutting on such way with such main drain or common sewer. The owner, of any land having direct access to a main drain or common sewer via a sewer constructed to the boundary of a public way as aforesaid, may make application to the Sewer Commission to connect any buildings on said land to the common sewer. Any such connection as may be approved by the Sewer Commission shall be in accordance with all rules and regulations as may be from time to time promulgated by the Sewer Commission.

(b) The owner, of any land benefited by the layout of a particular sewer from the common sewer to the boundary of the way, shall pay to the Town for the permanent privilege of using the same, such reasonable amount as the Sewer Commission may determine, under the provisions of M.G.L. c. 83 section 24 and; the amount so determined shall be assessed, certified and committed to the Town Treasurer by the Sewer Commission.

(c) Notwithstanding the provisions of Section 1 hereinabove and Sections 3(a) and (b), the owner(s) of a subdivision which pursuant to the regulations of the Planning Board who has/have been required to construct a sanitary sewer, shall not be assessed a sewer betterment fee but shall be assessed a sewer privilege fee on a per lot basis in lieu of a betterment. Such fee shall be assessed at the time that the subdivision dry sewer is connected to the main sewer and may be subject to apportionment. In addition, regardless of whether or not a subdivision is involved, any applicant for a sewer extension permit shall at the time such sewer extension is completed pay such privilege fee. The fee shall be determined by the Sewer Commission and shall not exceed one hundred (100%) percent of the betterment for the most recent sewer project.

Section 4. Land not built upon; extension of time for assessment.

Any land not built upon at the time of a sewer betterment assessment may upon application of the landowner receive an extension of time for the payment of the assessment until the land is built upon. Interest at the rate of four (4) percent per year shall be paid annually upon the assessment from the time it was made. The assessment shall be paid within three (3) months after such land is built upon.

Section 5. Maintenance of Sewer Works

a) Main Drains and Common Sewers.

It shall be the responsibility of the Sewer Department to maintain all main drains and common sewers in the Town of Lunenburg. Privately built main drains, common sewers, and appurtenances including pumps, pumping stations and force mains etc. shall not be maintained by the town unless and until said main drains, common sewers and all appurtenances have been accepted by the sewer commission and ownership of and, access to, said main drains, common sewers and appurtenances has been granted by the owner thereof to the Sewer Department.

b. Sewer Services and Sewer Connections.

It shall be the sole responsibility of the property owner to maintain all connection pipes and any other components necessary to connect the buildings or structures on said property to the main drain or common sewer including the physical connection ("Y" or "T" Connection or entry to a manhole) to the main drain or common sewer and the main or mains running from said main drain or common sewer to the property line of the property owner.